IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 25325 of 1998

Dated 6th March, 2007

Between

Shyam Sunder Agarwal

…Petitioner

and

Municipal corporation of Hyderabad,
Rep. By its Commisjsioner, Tank Bund Road,
Hyderabad, and anr.

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 25325 of 1998

ORDER:

In this Writ Petition, the petitioner seeks Writ of Mandamus to declare the action of the respondents in withholding the permission for construction of house in the property bearing Municipal No.12-2-823/A/158/A, admeasuring 422 square yards covered by Sy.No. 363 of Guidimalkapur village in Golconda Mandal, Hyderabad District as illegal and arbitrary.

The petitioner claims to be the owner of the land to an extent of 422 square yards covered by Municipal No. 12-2-823/A/158/A in Sy.No. 363 of Gudimalkapur village, Golconda Mandal, Hyderabad

District. It is stated that, when, one Mr. K. Hanumantha Rao, with whom the petitioner entered into agreement of sale, refused to execute the registered sale deed, the petitioner filed O.S.No. 206 of 1987 on the file of the First Additional Judge, City Civil Court, Hyderabad and the said suit was decreed and sale deed dated 18-2-1992 was executed in favour of the petitioner. Thereafter, the petitioner initially made an application on 27-6-1992 for grant of building permission, but the same was rejected on the ground that the site in question is not covered by approved layout. Questioning the same, the petitioner, earlier, filed Writ Petition No. 13142 0f 1992, which was disposed of, permitting the petitioner to submit fresh application along with necessary documents and on such filing of the application, the respondents were directed to consider the request of the petitioner for grant of permission. The request of petitioner for grant of permission was rejected vide proceedings dated 9-1-1997 in letter No.825/A/158/2/92 stating that the site in question is part and parcel of park area covered by approved lay out under Permit No. 59/39, dated 19-5-1967 of Santosh Nagar Coop.Housing Society. It is the submission of the learned Counsel appearing for the petitioner that subsequently another application was submitted, but however, no orders have been passed on the said application.

In the counter affidavit filed on behalf of the respondents, it is stated that the site in question, on which permission was sought for raising constructions is not covered by any approved lay out, and it is an open site, which was earmarked for park in the lay out under Permit No. 59/39, dated 19-5-1967.

Though it is submitted by the learned Counsel for the petitioner that subsequent proposals are not considered, but however, it is to be

noticed that more than two times, the respondents have considered the request of the petitioner and rejected the proposals for grant of permission to raise constructions on the site in question on the ground that the same is not covered by approved lay out. Unless the site in question is covered by any approved lay out, the petitioner is not entitle for any building permission. In any event, as it is stated that the site in question is earmarked for park area, covered by approved lay out under permit No. 59/39, dated 19-5-1967, question of granting permission to the petitioner does not arise. In that view of the matter, I do not find any merit in the Writ Petition for grant of relief as prayed for.

The Writ Petition is accordingly dismissed. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 06-03-2007.
Msnr.